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Paper No. 4

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**JAN 15 2002**

In re Application of:  
Judge, et al.  
Application No. 09/888,093  
Filed: June 21, 2001  
Attorney Docket No. 06837-112001

:  
: **OFFICE OF PETITIONS**  
: DECISION DISMISSING  
: PETITION  
:

This is a decision on the petition filed October 1, 2001, requesting that the above-identified application be accorded a filing date of June 22, 2001, rather than the presently accorded filing date of June 21, 2001.

A review of the original application papers shows that the papers were stamped in the Patent and Trademark Office (PTO) with a June 21, 2001 Office generated barcode. Therefore, the filing date of the application is the date shown on the Office generated barcode or "Office Date" stamp. See MPEP 505.

Petitioners have two options to obtain a June 22, 2001 filing date. First, petitioners could file their copy of the return postcard. If the return postcard shows a date stamp of June 22, 2001, the application will be accorded a June 22, 2001 filing date. A date stamped return postcard constitutes *prima facie* evidence that the application was filed on the date that is stamped on the postcard. MPEP 503. Second, petitioners could file a petition under 37 CFR 1.10(c) because petitioners filed the application via Express Mail. If the "date-in" shown on the Express Mail label EL298423956US is June 22, 2001, petitioners will establish that the filing date accorded to this application should be June 22, 2001.

Because the present petition does not include persuasive documentary evidence to show the application was filed on June 22, 2001, the petition must be **dismissed**.

No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan  
Supervisory Petitions Examiner  
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